
United States Court of Appeals

NINTH CIRCUIT

No. 20967

MARVIN LUSTIGER,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Appeal from the United States District Court for the
District of Arizona, Hon. James A. Welch, Judge.

APPENDIX "A" THROUGH APPENDIX "G"
TO
APPELLANT'S INTERIM OPENING BRIEF

FILED

MAY 1 1967

WM. B. LUCK, CLERK

MARKS & SCHNEIDER
BY: BURTON MARKS
8447 Wilshire Blvd., Suite 217
Beverly Hills, Calif. 90211
Attorneys for Appellant

MAY 1 1967



"IMPORTANT! Plenty Of Water. The photographs on this page show a fine well, a spring-fed pond and a water tank. These water sources, and more, are in the heart of Lake Mead City properties.

"When sufficient demand has arisen, a water distribution company would be formed to take care of individual needs. Such a company has not been formed as yet, but it is a logical development in the future and would conform with the public utility laws of the State of Arizona.

"The official Development Board of the State of Arizona reports that Arizona's vast water storage systems are among the world's largest and most efficient. Even without any additional water awarded by the Supreme Court in the Arizona case, its present water resources will support an industrial and population growth 10 times as big as Arizona's total today!"

This text appears opposite the opinion of the company's engineer (Ex. 37, p.20):

"* * * Because I have visited and observed the field conditions of the intermittent water producing streams, springs and dug and drilled water wells on your land holdings together with the surrounding area, I know that the underlying area is a water supply of considerable capacity. Water sources have been developed and used in the past for stock-watering. Recent well drilling has brought in wells from a depth of 60 feet to a maximum depth of 660 feet below the surface. Earthen dams have been used to hold surface waters for stock-watering throughout the year. Conservation of surface waters by proper storage should be noted also. Spreader dams could conserve natural rainfall by storage for better vegetation growth.

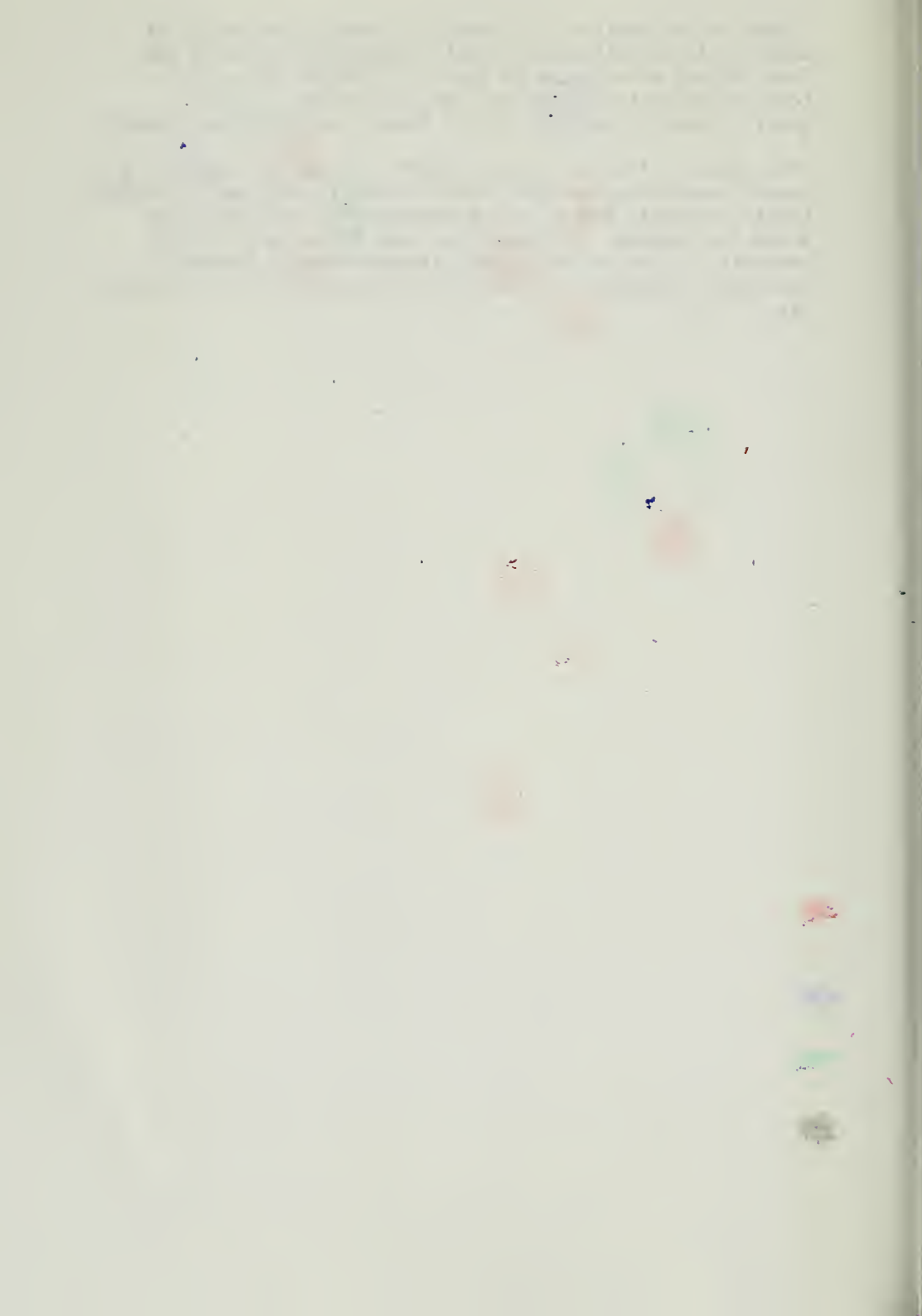
"The surface of your lands consists generally of good soil covering granites and related formations. These formations have a tendency to absorb and hold water, thus providing a natural water storage. When penetrated by wells these deeper formations provide a good grade of potable water. The wells, springs and water sources included within the boundaries of your lands or adjacent areas provide water of excellent quality for drinking and domestic use, both from a bacteriological and chemical standpoint, according to reports made on samples.

"It is my belief that different portions of your property will produce water from underground sources. The depth to a good supply of water will vary between 60 and 660 feet below the surface.

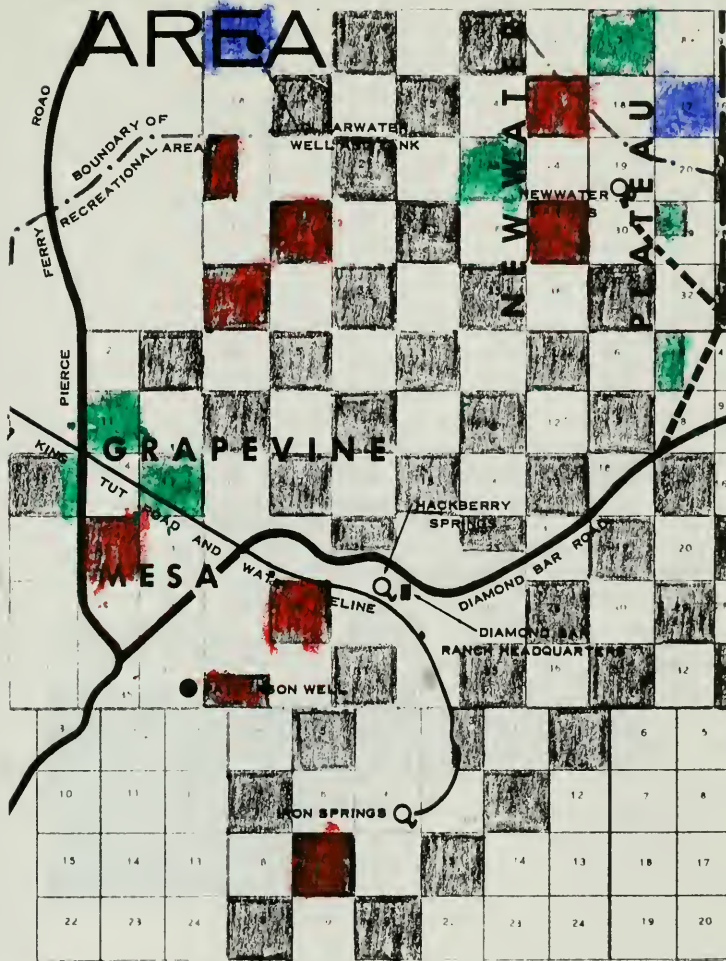
"There are springs and a shallow well in the eastern part of your estate on New Water Plateau, which indicates good possibilities for developing a domestic supply.


"There is no question in my mind but that a good supply of water could be collected in what is generally known as the Iron Springs area in the NW part of T.28N.,R.16W., which could be piped to a great part of your estate, (much by gravity flow) in anticipation of future community development.


"The subject of water on your estate, for the most part, compares favorably with other similar areas in this part of Mohave County, Arizona, and in fact provides water potentialities above the average. Incidentally, Lake Mead, north of your property, is one of the largest storage dams in the world. Its waters are clear and potable, being excellent for domestic use. * * *"





THE LM SECTIONS IN MOHAVE COUNTY:



 Sections from which parcels were sold, with sole identification of parcels sold coming from customer witnesses. (Ex. 26, 44* - See synopsis of customer witness testimony)

 Sections from which parcels were sold with no identification of what parcels were sold (Ex. 26, 44*).

 Sections which were subdivided but from which no sales were made (Ex. 26).

 Sections, which were owned, being purchased under contract or optioned but not subdivided (Ex.23). The purchase price ranged from \$33.20 per acre to \$125.00 per acre (Stip. 1, par. 19).

* Ex. 44 reveals only that of the total parcels available (4,247) in the eleven units from which parcels were sold there were 3,254 parcels "sold or the subject of a company file."

NOW! INVEST AT LAKE MEAD CITY, ARIZONA

Enjoy fishing, boating, hunting, swimming, horseback riding, in the West's most perfect climate. NO FOG. NO SMOG.

\$395

still buys a choice 1¼ acre parcel. Large enough so that you may divide it into 4 choice lots, *without subdivision expense*, each of which could bring you more than your original cost on the entire parcel.

Arizona is booming with new industries, expanding population, even more recreation. Investors are making huge profits.

\$10

dn.

\$10

PER MONTH



Send immediately for FREE full information.
LAKE MEAD LAND AND WATER CO., Dept. A
Box 13349, Main P.O., Phoenix 2, Arizona
Please rush me the free color brochure and
map. I understand there is no obligation and
no salesman will call.

3-4-61

Name _____

Address _____

City _____

Zone _____ State _____

VEGAS

LAS VEGAS
BOAT HARBOR

Lake Mead, the world's largest
manmade reservoir by volume,
is famous for its bass fishing
and water sports.

Farthest north point of
steamboat travel up the
Colorado from Yuma.
Capt. Rogers
took the Esmeralda
up to the Virgin River
through notorious rapids.

3 men from Powell, Gie
expedition, pulled out of
and were killed by Ute!

LAKE MEAD

BOULDER CITY

NELSON

EL DORADO
LANDING
Fishing Camp
All Facilities

SEARCHLIGHT

HOOPER DAM

WILLOW
BEACH
Fishing Camp
All Facilities

Big Horn sheep

EL DORADO
LANDING
Fishing Camp
All Facilities

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

SEARCHLIGHT

KATHERINE
WASH Fishing Camp
Cove, All Facilities

DAVIS DAM

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

UNION PASS

BULLHEAD CITY

Ghost towns

FORT MOHAVE
IND. RES.

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

NEEDLES

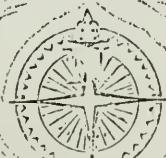
NEEDLES

NEEDLES

NEEDLES

NEEDLES

More than 275 miles of the Colorado River
are backed up behind 3 dams creating a wonderful
recreation area with modern facilities servicing
great stretches of desert wilderness lakes.
Trout, bass and croppie fishing, boating and water
sports of all kinds are nationally famous.



TO LOS ANGELES

PARKER DAM

PARKER

TO WICKENBURG, PRESCOTT, PHOENIX

72

WILLIAMS RIVER

HAVASU SPRINGS RESORT

HAVASU

HAVASU

HAVASU

HAVASU

WILLIAMS RIVER

HAVASU SPRINGS RESORT

HAVASU

HAVASU

HAVASU

HAVASU

WILLIAMS RIVER

HAVASU SPRINGS RESORT

HAVASU

HAVASU

HAVASU

HAVASU

WILLIAMS RIVER

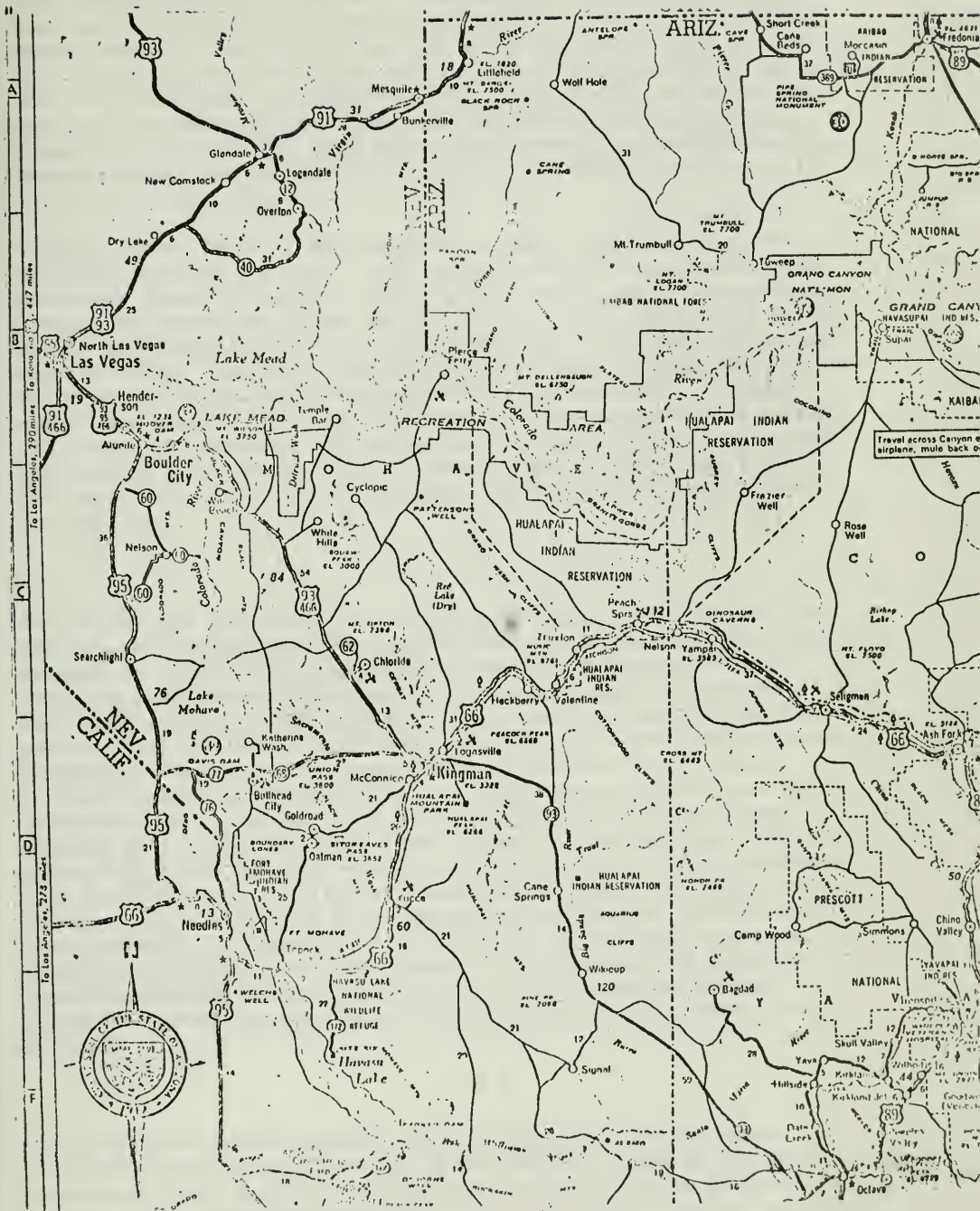
HAVASU SPRINGS RESORT

HAVASU

HAVASU

HAVASU

HAVASU



"The accused companies have been charged with selling undeveloped land upon fraudulent promises. Allegedly, the accused concerns have represented that all lots, despite their low prices, include paved streets already installed and paid for, piped water already installed and paid for, piped natural gas already installed and paid for, and telephones and electrical services already installed and paid for; represented that the lands offered by these accused companies are different from their true nature; and represented that domestic water and utilities are readily and cheaply available at the site of the land.

"These accused concerns may have made such claims, but you know that this company has not. This company would reiterate what has been made clear to you many times in the past. As you know, this company has never described its property as being other than totally virgin and undeveloped land, not suitable in its present state for home building. Certainly, at these low prices, no reasonable person would expect any paved street or utility improvements. If each parcel had power, water, gas, telephones, useable completed streets, and individual staking, the price would be much greater right now; the company would be selling, for much higher prices, small 25' x 100' city lots as is done in Kingman, Arizona, rather than 1 1/4 acre parcels.

* * * * *

"As all of you are aware, neither domestic water, nor electricity, nor gas, nor telephones are available on the lands which you have purchased. At the moment, domestic power is twenty miles away from the Information Office and even farther away from some of the lands offered by the company. As a practical matter, at the moment domestic water is not available on any of the land you have purchased. However, the company has engineering advice 'that different portions of your property will produce water from underground sources. The depth to a good supply of water will vary between 60 and 660 feet below the surface'. Furthermore, Clear-water Well, to which the company has claim, does exist as shown on your Vicinity Map. At its last testing, the depth to water was 130 feet and the Arizona State Department of Health, after laboratory analysis, has reported the well as a satisfactory source of water for domestic use. Additionally, the company has recently commenced the drilling of a well near its Information Office, close to properties where two purchasers have started construction of homes.

* * * * *

"As a matter of common sense, if the lands you have purchased evidence a need for on-the-site utilities, the value of the land undoubtedly will justify and require that utilities be brought to the lands. You have been able to purchase for your low purchase price, precisely because the land is undeveloped.

"At the time of your purchase, you received a Vicinity Map showing the Lak Mead City area. All land in Arizona is divided into sections, each section being one mile square. Each of the little squares on your map is one section. Less than 14% of the land in Arizona is privately owned. Almost all the remainder is under the ownership or control of the federal government and the state government. This relative scarcity of private land has in the past helped boost its price. All of the even numbered sections on your Vicinity Map are government owned or controlled. The government also owns or controls many of the odd numbered sections on your map. In short, as indicated by the company's previous mailings, only some of the odd numbered sections are owned by the company.

* * * * *

"The Vicinity Map shows, as you were previously told, that the company's lands start less than five miles from Lake Mead as the crow flies. It would be difficult to find private lands much closer than this, because the federal government years ago established control over virtually all lands within five miles of Lake Mead. Such federal lands are known as the Lake Mead National Recreation Area, which is administered by the National Park Service. Some of the company's land is actually inside the Lake Mead National Recreation Area. This is highly unusual, but it is perfectly legal to own private land within this Recreation Area. The government has no claim or rights on such private lands. Most of the company's land is to the south of the Lake Mead National Recreation Area, as is clearly shown on your Vicinity Map. As the crow flies, distances from various parts of the company's land to Lake Mead may vary from five miles to sixteen miles. As a geographic fact, there is very little subdivided land located closer to Lake Mead.

"Lake Mead City is split longitudinally by the magnificent Grand Wash Cliffs. The bulk of the land the company has sold is located in the valley to the west of these Cliffs. The remainder of the land sold is in the mile-high plateau above and to the east of the Cliffs. The company has engineering advice that each and every parcel sold has a useable building site without any guarantee of the economic feasibility of access roads now shown as easements, but not yet installed to each parcel. The lower valley and the upper plateau are now connected by the unpaved Diamond Bar road which is mostly maintained by the County.

* * * * *

"The company is confident that all of you purchased on the basis of the facts the company presented you. The replies to the questionnaire confirm that, except for a negligible minority, every purchaser who has seen Lake Mead City either before or after purchase is more than satisfied. Therefore, if the confusion sown by the recent nationwide publicity concerning the alleged

fraudulent practices of other companies has disturbed you, please go and personally inspect Lake Mead City. The Information Office, on the property, is open seven days a week and is open on holidays, too. This Information Office is 60 miles from Kingman, Arizona; 70 miles from Hoover Dam; and 100 miles from Las Vegas, Nevada. Most of this distance is via excellent paved United States highways and a paved portion of the Pierce Ferry Road. The remainder of the Pierce Ferry Road is not yet paved but is continuously maintained by the county and is quite suitable for passenger cars, house trailers and boat trailers. A camping area is available adjoining the Information Office.

* * * * *

"As concrete indication that the company is certain you will be satisfied with your purchase, and in line with the company's continuing policy of bending over backwards to assure the satisfaction of each and every customer, please be advised that any customer who inspects Lake Mead City prior to September 1, 1963, and is then dissatisfied with his purchase for any reason whatsoever, will be given the right at that time to sign a request for a full refund at the Information Office on the property, and that all such requests so signed at that time will be honored. If for any reason you may be unable to visit Lake Mead City this summer, please notify the company within the next fifteen days and a reasonable extension to this offer will be granted. The company very much would like to keep every one of its valued customers, but most of all, the company wants them all happy."

THE LOCATION OF PARCELS PURCHASED
BY CUSTOMER WITNESSES

[G - Government Witnesses;
D - Defendant Witnesses.]

Section 13-30-16	Section 23-29-17 (The Building Area)
(G) Reed (Parcel 246) a	(D) Hummel e, f
(G) Corley (Parcels 273, 274) a	(D) Sweeney e, g
	(D) Russell e, g
Section 25-30-16	(D) Mitchell e, g
(G) Bean (Parcel 378) b	(D) Meyer e, f
(G) Oldfield (Parcel 175) a	
	Section 29-29-16
Section 19-30-16	(G) D'Amico (Parcel 41) h
(G) Binkley (Parcels 1, 2) c	(G) Rodler (Parcel 125) b
	(D) Davison (Parcel 377) e
Section 29-30-16	Section 31-29-16
(G) Leonard (Parcel 221) d	(G) Mecchi (Parcel 58) i
Section 31-30-16	Section 17-28-16
(G) Bender (Parcel 34) c	(G) Bland (Parcel 67) j
(D) Lincoln (2 Parcels) e	(G) Feldman (Parcel 143) k
(D) McDonald e	(G) Ball (Parcels 37, 53) l

-
- a. Quit paying for reasons not connected with property; no request for refund or compliance with refund offer.
- b. Refunded in full on complaint prior to refund offer.
- c. Paid through mid-1963; no request for refund after earlier visit; upset by post office investigation; no compliance with refund offer despite being in Phoenix in mid-1963.
- d. Paid to maturity; upset by post office investigation; no compliance with refund offer despite being in Phoenix in mid-1963.
- e. Obviously satisfied customer.
- f. Bought after visiting property.
- g. Traded from other unit.
- h. Paid in full; no request for refund after earlier visit; no compliance with refund offer despite being in Phoenix in mid-1963.
- i. Paid in full; no compliance with refund offer despite being in Phoenix in mid-1963.

(continued)

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

NAME	DATE
NO.	
EXPERIMENT	
THEORY	
PROCEDURE	
RESULTS	
DISCUSSION	
CONCLUSIONS	
QUESTIONS	
ANSWERS	
REMARKS	

1. The purpose of this experiment is to determine the rate of reaction between hydrogen peroxide and potassium iodide in the presence of a catalyst. The reaction is as follows:

$$2H_2O_2 \rightarrow 2H_2O + O_2$$

2. The rate of reaction is measured by the volume of oxygen gas evolved over a period of time. The reaction is carried out in a conical flask fitted with a delivery tube leading into a gas syringe.

3. The following table shows the results of the experiment:

Time (min)	Volume of O_2 (ml)
0	0
1	10
2	20
3	30
4	40
5	50

4. The rate of reaction is calculated as the volume of oxygen evolved per unit time. In this case, the rate is 10 ml/min.

5. The reaction is first order with respect to hydrogen peroxide and zero order with respect to potassium iodide.

- j. Quit paying without complaining; no request for refund or compliance with refund offer.
- k. No specific request for refund; ignored offer to trade to Building Area prior to refund offer; no compliance with refund offer.
- l. No complaint after earlier visit; refunded in full after compliance with refund offer.

